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DETAILED ACTION

This action is in response to the communication filed on 10/26/2009.

Claims 2, 11-15, 21-40, 42, 46-49, and 51-52 are cancelled by the Applicant.

Claims 1, 3, 6, 7, 9, 10, 16, 17, 41, 43, 50, and 53 are allowed.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cory G. Claassen [Reg. No. 50,296] on January 5, 2010.

In the Specification

With amendment to specification as below, Applicant's are disavowing the deleted section of the medium.

Please amend the paragraph [0014] on page 7 as follows.

[0014] Instructions are provided to memory from a machine-accessible medium, or an external storage device accessible via a remote connection (e.g., over a network via network interface 180) providing access to one or more electronically-accessible media, etc. A machine-accessible medium includes any mechanism that provides (i.e., stores and/or transmits) information in a form readable by a machine (e.g., a computer). For example, a

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machine-accessible medium includes random-access memory (RAM), such as static RAM (SRAM) or dynamic RAM (DRAM); ROM; magnetic or optical storage medium; flash memory devices; ~~electrical, optical, acoustical or other form of propagated signals (e.g., carrier waves, infrared signals, digital signals)~~; etc.

In the claims

Please cancel claims 4, 5, 8 and 18-20 and amend claims 1, 6, 7, 9, 10, 41, and 50 as follows.

1. (Currently Amended) A method comprising:
 - receiving source code;
 - transforming the source code to intermediate code;
 - executing the intermediate code based on external execution input;
 - generating performance profile data that indicates performance of the intermediate code when the intermediate code is executed with the external execution input; ~~[[and]]~~
 - annotating the intermediate code based, at least in part, on the performance profile data to generate annotated intermediate code, wherein the annotating occurs after the executing of the intermediate code; and
 - producing machine code with a compiler based on the ~~data and the~~ annotated intermediate code.
4. (Cancelled)
5. (Cancelled)
6. (Currently Amended) The method of claim ~~[[5]]~~ 1, wherein annotating the intermediate code comprises concatenating data structures that include the performance profile data to intermediate code to embed the performance profile data into the intermediate code.

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7. (Currently Amended) The method of claim [[5]] 1, wherein annotating the intermediate code comprises:
- generating a file that includes the performance profile data; and
 - mapping the performance profile data to corresponding portions of the intermediate code.
8. (Cancelled)
9. (Currently Amended) The method of claim [[5]] 1, wherein the performance profile data comprises one or more of branch statistics, loop statistics [[and]] or function invocation statistics.
10. (Currently Amended) The method of claim [[8]] 1, wherein the machine code executes faster than the intermediate code.
18. – 20. (Cancelled)
41. (Currently Amended) An article of manufacture comprising:
- a computer readable storage medium including thereon sequences of instructions that, when executed, cause an electronic system to:
 - receive source code;
 - produce intermediate code based on the source code;
 - execute the intermediate code based on external execution input;
 - generate performance profile data that indicates performance of the intermediate code when the intermediate code is executed with the external execution input; [[and]]
 - annotate the intermediate code based, at least in part, on the performance profile data to generate annotated intermediate code, wherein the annotating occurs after the executing of the intermediate code; and
 - produce machine code based on the annotated intermediate code using a compiler. ~~and the performance data.~~
50. (Currently Amended) A system comprising:

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a processor;
a dynamic random access memory coupled with the processor; and
an article of manufacture comprising a computer readable storage medium including thereon sequences of instructions that, when executed, cause an electronic system to:
receive source code;
produce intermediate code based on the source code;
execute the intermediate code based on external execution input;
generate performance profile data that indicates performance of the intermediate code when the intermediate code is executed with the external execution input; [[and]]
annotating the intermediate code based, at least in part, on the performance profile data to generate annotated intermediate code, wherein the annotating occurs after the executing of the intermediate code; and
produce machine code based on ~~the data and~~ the annotated intermediate code using a compiler.

--END--

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

As pointed out by the Applicants in the arguments that the cited prior art (USPN 6,289,505 to Goebel and USPN 2003/0051234 to Schmidt) taken alone or in combination fail to teach, in combination with the other claimed limitations, *generating performance profile data that indicates performance of the intermediate code when the intermediate code is executed with the external execution input; annotating the intermediate code based, at least in part, on the performance profile data to generate annotated intermediate code, wherein the annotating*

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occurs after the executing of the intermediate code; producing machine code with a compiler based on the annotated intermediate code as recited in the independent claims 1, 14 and 50.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satish Rampuria whose telephone number is (571) 272-3732. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Satish Rampuria
Examiner, Art Unit 2191

/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191